

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

WILLIE SAMPSON,

Petitioner,

vs.

JACK PALMER, *et al.*,

Respondents.

Case No. 3:11-cv-00019-LRH-WGC

**ORDER**

This action is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner represented by counsel.

In the Eighth Judicial District Court for the State of Nevada, petitioner was convicted by jury trial of first-degree kidnapping, two counts of lewdness with a minor under fourteen, attempted sexual assault with a minor under fourteen, and sexual assault with a minor under fourteen. (Exhibit 56, Case No. C-182432).<sup>1</sup> Petitioner was sentenced on each count, accruing a term of life with the possibility of parole after twenty years on the count of the sexual assault with a minor under fourteen as his harshest sentence, to run concurrent to the terms imposed for the other counts. (Exhibit 67).

Petitioner filed a federal habeas petition in this Court. (ECF No. 4). The Court appointed counsel to represent petitioner in his federal habeas proceedings. (ECF No. 33 & 34). Petitioner's counsel filed an amended petition on January 10, 2013. (ECF No. 44). Respondents moved to

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<sup>1</sup> The exhibits referenced in this order are found in the Court's record at ECF Nos. 10-16 (Exhibits 1-178) and ECF Nos. 45-46 (Exhibits 179-241).

1 dismiss the amended petition. (ECF No. 53). On September 3, 2013, the Court filed an order  
2 granting in part, and denying in part, the motion to dismiss. (ECF No. 67). The Court dismissed  
3 Ground 2 of the petition as duplicative and dismissed Ground 6 as procedurally defaulted. The  
4 Court directed respondents to address the remaining grounds of the petition, including the claim that  
5 petitioner was denied a fair trial because he was prevented from presenting testimony of Dr.  
6 Racoma. (*Id.*). Respondents filed an answer on November 26, 2013. (ECF No. 77). Petitioner  
7 filed a motion for reconsideration of the Court's dismissal of Ground 6. (ECF No. 79). Petitioner  
8 filed a reply to the answer on February 21, 2014. (ECF No. 85). By order filed March 31, 2014,  
9 this Court denied petitioner's motion for reconsideration and denied the remaining grounds of the  
10 amended petition. (ECF No. 86). Judgment was entered on the same date. (ECF No. 87).  
11 Petitioner appealed. (ECF No. 88).

12 On October 6, 2015, the United States Court of Appeals for the Ninth Circuit entered an  
13 unpublished memorandum opinion reversing this Court's denial of the amended petition, with  
14 instructions that this Court grant a conditional writ of habeas corpus. (ECF No. 97). The Court of  
15 Appeals ruled that petitioner received ineffective assistance of counsel because his counsel did not  
16 call Dr. Racoma to testify at trial concerning the victim's oppositional defiant disorder (ODD).  
17 (*Id.*). The Court of Appeals issued its mandate on May 19, 2016. (ECF No. 102). The Court now  
18 enters an order in compliance with the opinion of the Court of Appeals.

19 **IT IS THEREFORE ORDERED** that the petition for a writ of habeas corpus is  
20 **CONDITIONALLY GRANTED** concerning petitioner's convictions in case number C-182432 of  
21 the Eighth Judicial District Court for the State of Nevada. Petitioner shall be released from custody  
22 within **sixty (60) days** unless the State files in this matter a written notice of election to retry  
23 petitioner within the sixty day period and thereafter initiates retrial within **one-hundred-twenty**  
24 **(120) days** following the filing of the notice of election to retry petitioner, subject to requests for  
25 reasonable modification of the time periods by the parties.

26 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL ENTER JUDGMENT** in  
27 favor of petitioner and against respondents, conditionally granting the petition for a writ of habeas  
28 corpus as provided above.

1           **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL PROVIDE**, via certified  
2 mail, a copy of this order, the judgment, and the memorandum opinion of the Ninth Circuit Court of  
3 Appeals (ECF No. 97) to the Clerk of the Eighth Judicial District Court for the State of Nevada and  
4 to the Clark County District Attorney in connection with Case No. C-182432. Additionally, the  
5 Clerk of Court **SHALL PROVIDE**, via certified mail, a copy of this order, the judgment, and the  
6 memorandum opinion of the Ninth Circuit Court of Appeals (ECF No. 97) to the Clerk of the  
7 Nevada Supreme Court in connection with that court's Case Nos. 41627 & 54135.

8           Dated this 13th day of June, 2016.

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13           LARRY R. HICKS  
14           UNITED STATES DISTRICT JUDGE  
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